

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 817

## 90TH GENERAL ASSEMBLY

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Reported from the Committee on Pensions and General Laws, March 9, 2000, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3624S.02C

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### AN ACT

To repeal sections 169.600, 169.620 and 169.670, RSMo Supp. 1999, relating to certain school employee retirement systems, and to enact in lieu thereof three new sections relating to the same subject, with an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 169.600, 169.620 and 169.670, RSMo Supp. 1999, are repealed and three new sections enacted in lieu thereof, to be known as sections 169.600, 169.620 and 169.670, to read as follows:

169.600. As used in sections 169.600 to 169.710, unless the context clearly requires otherwise, the following words and phrases mean:

(1) "Accumulated contributions", the sum of the annual contributions a member has made to the retirement system through deductions from the member's salary, plus interest compounded annually on each year's contributions from the end of the school year during which such contributions were made;

(2) "Average compensation", as used in subdivision (3) of subsection 1 of section 169.670, shall be the total compensation paid to a member for any ten consecutive years of creditable service, or for the entire period of creditable service if less than ten years, prior to July 1, 1973, divided by one hundred twenty or by the number of months in the member's period of creditable service if less than ten years; provided, that in determining the total compensation, any annual compensation entering into the total shall not be less than one thousand two hundred dollars and shall not exceed ten thousand dollars;

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

- (3) "Board", the board of trustees provided for in section 169.020;
- (4) "Creditable service", prior service or membership service or the sum of the two if the member has both to the member's credit;
- (5) "Employee", any person regularly employed by a public school district, junior college district or by the board of trustees, as defined in sections 169.600 to 169.710, who devotes at least twenty hours per week to such employment in a position which is not covered by the public school retirement system of Missouri; provided, however, that no person shall be required to contribute to, or shall receive benefits from both the retirement system herein established and the public school retirement system of Missouri for the same services;
- (6) "Employer", the district or other employer that makes payment directly to the employee for the employee's services;
- (7) "Final average salary", the total compensation paid to a member for any **[five] three** consecutive years of creditable service divided by **[sixty] thirty-six**; provided, that in determining the total compensation, any annual compensation less than one thousand two hundred dollars shall be regarded as one thousand two hundred dollars and an annual compensation for services prior to July 1, 1973, in excess of ten thousand dollars shall be regarded as ten thousand dollars; and provided, that the board may set a maximum percentage of increase in annual compensation from one year to the next in the final average salary period;
- (8) "Junior college district", any public junior college district organized and operated pursuant to the provisions of sections 178.770 to 178.890, RSMo, which enters into an agreement with the board of trustees of the retirement system to include its eligible employees in the system immediately upon the effective date of the agreement;
- (9) "Member", a person who holds membership in the retirement system;
- (10) "Membership service", service rendered by a member of the system after the system becomes operative;
- (11) "Prior service", service rendered by a member of the retirement system before the system becomes operative and may include service as a teacher for which credit has not been claimed from the public school retirement system of Missouri;
- (12) "Public school district" or "district", any duly constituted public school district under the authority and supervision of a duly elected district or city or town board of directors or board of education, except those school districts defined in sections 169.270 and 169.410;
- (13) "Retirement allowance", a monthly payment for life, during retirement;
- (14) "Retirement system" or "system", the nonteacher school employee retirement system of Missouri created by sections 169.600 to 169.710;
- (15) "Salary", "salary rate" or "compensation" shall mean the regular remuneration which is earned by a member as an employee of a district, but not including employer-paid fringe benefits except the value of employer-paid medical benefits (including dental and vision) for members, and

not including consideration for agreeing to retire or other nonrecurring or unusual payments that are not a part of regular remuneration. The board by its rules may further define salary, salary rate and compensation in a manner consistent with this definition and with sections 169.600 to 169.715;

(16) "School year", the year from July first of one year to June thirtieth of the next year, inclusive, which shall also be the fiscal year of the system.

169.620. 1. The funds required for the operation of the retirement system created by sections 169.600 to 169.715 shall come from contributions made in equal amounts by employees as herein defined and their employers, beginning November 1, 1965, and from such interest or income as may be derived from the investment of funds of the system. All contributions shall be transmitted to the board of trustees by employers in such manner and at such times as the board by rule shall require.

2. For each school year following the date on which the system becomes operative, each and every employer of one or more persons who are members of the system shall transmit to the board of trustees, in the manner and accompanied by such supporting data as the board shall prescribe, twice the amount that is deductible from the pay of such employee or employees during the school year. Failure or refusal to transmit such amount as required shall render the person or persons responsible therefor individually liable for twice the amount so withheld. Suits for the recovery of amounts for which individuals are thus rendered liable shall be instituted and prosecuted by the board of trustees in the name of the retirement system. In addition to such civil penalty, and not in lieu thereof, any person or persons made responsible for the remittance of contributions who shall willfully and knowingly fail or refuse to transmit such contributions or any part thereof to the board of trustees shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars and not more than two hundred dollars. Each day such person or persons shall so fail or refuse to transmit such contributions shall be deemed a separate offense. The board of trustees may request the employer to provide the information necessary to administer the system and to advise each member of such member's status.

3. The contributions of members of the retirement system shall be collected by their employers through appropriate deductions from paychecks. The total amount deducted from the paychecks of members during any school year shall equal such a percent of their salary rates as may be required by the contribution rate then in effect. For contribution purposes any annual salary rate less than one thousand two hundred dollars shall be regarded as one thousand two hundred dollars. Contributions transmitted to the retirement system before February 20, 1996, based on salary rates which either included or excluded employer-paid medical benefits for members, shall be deemed to have been in compliance with this section. The retirement system shall not refund or adjust contributions or adjust benefit determinations with respect to any period

before February 20, 1996, solely because of the treatment of employer-paid medical benefits for members. Effective December 31, 1995, compensation in excess of the limitations set forth in section 401(a)(17) of title 26 of the United States Code shall be disregarded for purposes of determining contributions pursuant to this section and calculating benefits paid by the nonteacher school employee retirement system of Missouri. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For the purpose of this subsection, an "eligible employee" is an individual who was a member of the system before July 1, 1996.

4. The contribution rate shall be three percent of earnings until July 1, 1982. [After July 1, 1982,] The board of trustees is authorized to fix the level rate of contribution, which shall not exceed [four and one-half] **five** percent, required for the operation of the system and to make adjustments in such rate as may thereafter be necessary; provided that, if the level rate required for the operation of the system shall exceed [four and one-half] **five** percent for five consecutive years, all benefits herein provided shall be equitably reduced to such an extent that the rate required for the operation of the system shall be [four and one-half] **five** percent.

5. Regardless of the provisions of any law governing compensation and contracts, every employee shall be deemed to consent and agree to the deductions provided herein. Payment of salary or compensation less such deduction shall be a full and complete discharge of all salary or compensation claims and demands during the period covered by such payment, except as to the benefits provided pursuant to sections 169.600 to 169.715.

6. A person serving as an employee as defined in section 169.600, who became a member after November 1, 1965, and before July 1, 1974, and who was regularly employed to serve for twenty or more hours per week at some time during the period November 1, 1965, to July 1, 1974, may receive membership service credit for such service by paying into the system the amount, with interest at such rate as may be set by the board within the limits set by law for interest rates, the person would have contributed had the person been eligible for membership.

7. Any member who rendered service as an employee as defined in section 169.600 for a junior college district at any time between October 31, 1965, and the effective date of an agreement between the junior college and the board of trustees as provided in section 169.600 may elect to purchase membership service credit for that service. The election shall include all service for which the member is eligible to purchase credit, and shall be made prior to retirement. The purchase shall be effected by the member's paying to the system with interest, and within the time period allowed by law for the election, the contributions which would have been deducted from the employee's salary had the employee been a member during the period or periods of such service, and had the contribution rate in effect at the date of election been in effect at the time the service was rendered. Other provisions of law to the contrary notwithstanding, no membership credit shall be allowed pursuant to the provisions of this section which exceeds in length the member's creditable

service for employment rendered after October 31, 1965.

169.670. 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, **or whose sum of age and creditable service equals eighty years or more**, or who has attained the age of fifty-five years of age and has at least twenty-five years of creditable service, or whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and [forty-five] **fifty-one** hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal Social Security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership service for each year of prior service credit; and

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between [July 1, 1996, and] July 1, 2000, **and July 1, 2003**, a member may elect to receive a retirement allowance of:

(a) One and [forty-three] **forty-nine** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years and the member has not attained the age of fifty-five;

(b) One and [forty-one] **forty-seven** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and [thirty-nine] **forty-five** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and [thirty-seven] **forty-three** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and [thirty-five] **forty-one** hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years and the member has not attained the age of fifty-five;

**(5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this subsection, a member retiring on or after July 1, 2000, whose creditable service is thirty years or more or whose sum of age and creditable service is eighty years or more,**

**shall receive a temporary retirement allowance equivalent to four-tenths of one percent of the member's final average salary multiplied by the member's years of service until such time as the member reaches the minimum age for social security retirement benefits.**

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed seventy-five percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is thirty years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement

allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance;

OR

Option 7. A plan of variable monthly benefit payments which provides, in conjunction with the member's retirement benefits under the federal Social Security laws, level or near-level retirement benefit payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after attaining age

fifty-five and acquiring five or more years of creditable service or after acquiring thirty or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's primary beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship payments under option 2 or a payment of the member's accumulated contributions. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 of this section.

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than thirty years of creditable service, and the person named as the primary beneficiary has an insurable interest in the life of the deceased member or disability retiree, the designated beneficiary may elect to receive either a payment of the person's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or to the person's estate; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the estate of the beneficiary unless the retired individual designates a different recipient with the board at or after retirement.

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or to the member's estate, if there be no beneficiary; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the estate of the beneficiary.

7. If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

8. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years

of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance anytime after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

9. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

10. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

11. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

12. Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option, actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

13. Benefits paid pursuant to the provisions of the nonteacher school employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code.

14. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

**15. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of**

**education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.**

Section B. Because immediate action is necessary to properly administer the provisions of the nonteacher school employee retirement system, the repeal and reenactment of sections 169.600, 169.620 and 169.670 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 169.600, 169.620 and 169.670 of this act shall be in full force and effect on July 1, 2000, or upon their passage and approval, whichever occurs later.

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